



U.S. Department of Justice

*United States Attorney
Eastern District of New York*

F. #2016R00467

*271 Cadman Plaza East
Brooklyn, New York 11201*

March 28, 2022

The Honorable Margo K. Brodie
Chief United States District Judge
Eastern District of New York
225 Cadman Plaza East
Brooklyn, New York 11201

Re: United States v. Ng Chong Hwa
Criminal Docket No. 18-538 (S-2) (MKB)

Dear Chief Judge Brodie:

The government respectfully submits this letter in further support of its proposed jury instructions as to certain provisions of Malaysian law and to propose a change in connection thereto. See ECF Nos. 178, 181, 185.

First, the government proposes a minor revision to the government's proposed jury instructions to avoid confusion. Specifically, the government respectfully requests that the Court include the language set out in the revised request to charge attached hereto.¹ Section 107 of the Malaysian Penal Code, Abetment of a thing, was amended on July 31, 2012 to include a subsection providing that "A person abets the doing of a thing who . . . commands any person to do that thing." Because this "commands" language was not in effect during the entirety of the charged conspiracy, the government proposes removing it from the jury instructions.

Second, in order to further assist the Court in instructing the jury on the laws of Malaysia relevant to the charges in this case, the Government has attached hereto an affidavit of Dato' Mah Weng Kwai. Dato' Mah has been a member of the Malaysian Bar since 1972 and, among other things, served as a member of the Malaysian judiciary for approximately five years. While the Court is well positioned to consider questions of law, including questions of foreign law such as this, Federal Rule of Evidence 26.1 clearly provides that "a court may consider any relevant material or source—including testimony—without regard to the Federal Rules of Evidence" when deciding issues. Dato Mah's affidavit confirms the provisions of Malaysian law which were in effect during the time periods relevant to the charges in this case and that the

¹ Attached to this letter are five documents: An affidavit signed by Dato' Mah and four exhibits referenced in Dato' Mah's affidavit, including a revised proposed request to charge, attached to Dato' Mah's affidavit as Exhibit D.

government's proposed jury instructions as reflected in Exhibit D to Dato' Mah's affidavit accurately state the law.

Accordingly, the government respectfully requests that the Court instruct the jury as to Malaysian law as proposed in Exhibit D.

Respectfully submitted,

BREON PEACE
United States Attorney

By: s/
Alixandra E. Smith
Drew G. Rolle
Dylan A. Stern
Assistant U.S. Attorneys

DEBORAH L. CONNOR
Chief, Money Laundering and Asset
Recovery Section, Criminal Division
U.S. Department of Justice

JOSEPH BEEMSTERBOER
Acting Chief, Fraud Section
Criminal Division
U.S. Department of Justice

s/
Jennifer E. Ambuehl
Trial Attorney

s/
Brent Wible
Trial Attorney